



# Code Words

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Douglas M. Duncan, County Executive

Charles W. Thompson, Jr., County Attorney

## OFFICE OF THE COUNTY ATTORNEY

*The Office of the County Attorney is the legal arm of the Montgomery County government. The County Attorney's staff exclusively advises and represents County agencies, including the Council. The Office of the County Attorney also serves the citizens of Montgomery County directly. Although staff cannot offer legal advice to individuals, we can offer guidance on the application of Montgomery County law, including code enforcement matters, and can help to direct those with questions to appropriate agencies. We can be reached at (240) 777-6700.*

## CODE ENFORCEMENT UNIT

*The Code Enforcement Unit serves the community by helping to fairly and reasonably enforce our County Code and helping to solve the problems leading to citations. If you have a question regarding County Code enforcement, a specific Code enforcement case, or would like to schedule a speaker for or meeting with your community group, please contact James Savage, Associate County Attorney, at (240) 777-6779 or [james.savage@montgomerycountymd.gov](mailto:james.savage@montgomerycountymd.gov).*



## Facts to Know Before You Put Up a Sign

**Susan Scala-Demby**

*Department of Permitting Services*

Chapter 59 F of the Montgomery County Code regulates the type, size, and placement of signs on property in specific zoning classifications throughout the County. Any sign that can be viewed from beyond the property line requires a permit.

Signs are divided into three types: **permanent**, **limited duration**, and **temporary**. Each type carries specific requirements and limitations.

### Permanent Signs

Permanent signs are displayed on private property for an indefinite period of time. This type of sign requires a sign permit. If it is illuminated, a separate electrical permit is also required. In residential zones, a total of two square feet of sign area is allowed. In commercial and industrial areas, one wall sign is allowed for each customer entrance to the building. Two square feet of sign area is permitted for each linear foot of building frontage, however, the sign cannot exceed 200 square feet. The zone where these signs are placed determines the setback and height restrictions.

### Limited Duration Signs

Limited duration signs are displayed on private property or in the public right-of-way for periods of time less than a year. These signs may be displayed on

## INSIDE THIS ISSUE

- 1 Facts to Know Before You Put Up a Sign
- 2 Commercial Vehicles in Residential Zones
- 3 Contempt – and Its Many Varieties  
Important Numbers and Contact Information

*continued to page 2*

weekends only or for 14 consecutive days during any six-month period. These signs are limited to five square feet and must be mounted 30 inches above the ground. An applicant is limited to four signs per business location. These signs cannot be in the median strip of the roadway and require a permit. In residential zones, the number of signs is not limited. The total sign area cannot exceed 10 square feet. The zone where these signs are placed determines the setback and height restrictions.

### Temporary Signs

Temporary signs are non-permanent signs displayed on private property for not more than 30 days. The date the sign is put up must be noted on the sign. In all zones, the setback and height restrictions are the same as for permanent signs. In residential zones, the total sign area must not exceed 10 square feet. In commercial and industrial zones, the total sign area cannot exceed 50 square feet.

The Department of Permitting Services issues sign permits. You may call (240) 777-6240 for assistance. Failure to comply with the sign regulations could result in civil citations imposing a \$500 fine and/or removal of the sign. 

## Commercial Vehicles in Residential Zones

**Mark Moran**

*Department of Permitting Services*

Since 1990, Montgomery County has allowed three levels of home operated businesses in residential zones. As a consequence, and as population and the cost of renting commercial parking space has increased, the County has received an increased number of complaints regarding commercial vehicle parking in residential areas.


A commercial vehicle is defined by Chapter 59 of the Montgomery County Code (the Zoning Ordinance) as “a duly licensed and registered vehicle used to transport passengers or property to further a commercial enterprise.” Additionally, vehicles over 10,000 lbs. gross vehicle weight, vehicles with a load capacity over  $\frac{3}{4}$  ton, any “for hire” vehicles, and freight or semitrailers are also considered commercial vehicles under Chapter 59.

The zone in which the commercial vehicles are used or parked on private property determines the size and number

permitted. Generally speaking, there are three zones in residential areas of the County that allow off-street parking of commercial vehicles. Lots zoned R-200 or smaller, which comprise the majority of the homes south and east of Rockville, allow one commercial vehicle to be parked on the property – if it is less than 19 feet long, less than 8 feet tall, and less than 10,000 lbs. gross vehicle weight. This means that anything larger than a standard pick-up truck or van probably exceeds the size or weight requirements. Recreational vehicles and farm vehicles are not considered commercial.

In the more rural areas of the County, with residences on property larger than R-200 (20,000 sq. feet lots), such as the RE-1, RE-2, and RE-2C zones, up to three commercial vehicles of any size are permitted on the property. The rural areas in the northern part of the County zoned RURAL, RC, RDT, LDRC, RNC, and RS allow any number of commercial vehicles to be parked on the property.

Although commercial vehicles are permitted in residential zones with restrictions as stated, residents of the property are subject to the County Code requirements related to the operation of home based businesses as well. The first level of home occupation is called a “No Impact Home Occupation” and non-resident employees are not permitted at all. A “Registered Home Occupation” allows a maximum of one non-resident employee on the property, and a maximum of two non-resident employees are permitted if a Special Exception is obtained. A “Home Occupation Special Exception” requires notification of neighbors and a public hearing. Therefore, a citizen may be able to legally park commercial vehicles on their property under the zoning law, but not be able to use the vehicles for business purposes if they have more employees than are allowed on site pursuant to the County Code.

The Department of Permitting Services’ Casework Management Division enforces violations of the commercial vehicle laws on residentially zoned property. You may request an investigation by calling the complaint line at (240) 777-6259, emailing your request to [dps@montgomerycountymd.gov](mailto:dps@montgomerycountymd.gov), or faxing your request to (240) 777-6262. Commercial vehicle parking on public streets is not a zoning issue. These violations are enforced by the Montgomery County Police Department. 

## IMPORTANT PHONE NOS.

Animal Services	(240) 773 – 5925
Abandoned Cars	(301) 840 – 2454
Air Pollution Incidents	(240) 777 – 7770
Building Permits	(240) 777 – 6370
Building Code Inspections	(240) 777 – 6210
Consumer Affairs	(240) 777 – 3636
County Information	(240) 777 – 1000
Electrical Licenses & Permits	(240) 777 – 6240
Environmental Protection	(240) 777 – 7770
Fire-Code Violations	(240) 777 – 2457
Housing & Code Enforcement	(240) 777 – 3600
Illegal Dumping	(240) 777 – 7770/DUMP
Untagged Cars	(240) 777 – 3785
Noise Control	(240) 777 – 7770
Recycling/Leaf Collection	(240) 777 – 6410
Snow Removal & Pot Holes	(240) 777 – ROAD
Solid Waste	(240) 777 – 6410
Street Lights	(240) 777 – 2190
Use & Occupancy Permits	(240) 777 – 6210
Vendor Information	(240) 777 – 6240
Water Pollution Incidents	(240) 777 – 7770
Weed Control	(240) 777 – 3785
Zoning Information	(240) 777 – 6240
Zoning Complaints	(240) 777 – 6259

Office of the County Attorney – Code Words  
101 Monroe Street, 3<sup>rd</sup> Floor  
Rockville, MD 20850  
(240) 777-6700

Code Words Editor  
*Janita R. Lillard, Paralegal*

Principal Counsel  
*James Savage, Esquire*

To be placed on our mailing list or to submit questions or comments, please contact us at the above address or [mcgatty@montgomerycountymd.gov](mailto:mcgatty@montgomerycountymd.gov). Please include your name, address, and telephone number or e-mail address. *Code Words* is published quarterly.

## Contempt – and Its Many Varieties

**James Savage**

*Associate County Attorney*

What happens when the court orders a defendant to abate a violation of the Montgomery County Code and the violation remains after the time allowed for its correction has run? The County's Code Inspectors have a number of choices. The County can correct the violation and pass the expense on to the defendant as part of the tax collection process. The County might decide to issue another citation to the defendant, noting the second offense. Still another alternative may be the County's request for an order to show cause why the defendant should not be held in contempt. A contempt charge is the most powerful of the alternatives available to the Inspector, but a number of steps are required to complete the process.

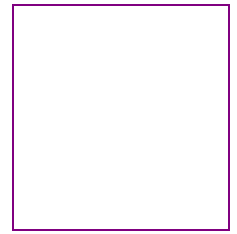
Contempt is the direct disrespect of the court, or the willful disregard or disobedience of the court's rules or orders. Contempt is classified as either civil or criminal, and as either direct or constructive. Criminal contempt is committed in the direct presence of the court or is directly disruptive of a court's proceedings. It is punished by a fine or a custodial sentence. If a person is unable to afford representation for a criminal contempt, the court will appoint counsel and the defendant may have a right to a jury trial. Civil contempt is a deliberate failure to act after the court has directed the defendant to do something that is a remedy for the benefit of another. A remedy is always the goal for civil contempt matters. As in criminal contempt, the defendant has a right to counsel and, if incarceration is possible, due process requires the court to appoint counsel. If found guilty, the defendant always should have a means of purging the contempt. The defendant could be sentenced to jail, but correcting the condition would result in release.

When the court has ordered remedial action in the form of an abatement order, and the defendant has the ability to perform the remedial action, but has not, *constructive civil contempt* is likely. In this case, the Inspector will pursue a petition for a show cause order, reiterating the violation of the court's initial abatement order. The order to show cause states the date, time, and place for the hearing. Service of the order must be expedited because the

*continued to page 4*



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101 Monroe Street, 3<sup>rd</sup> Floor  
Rockville, MD 20850



## ADDRESS CORRECTION REQUESTED


*Contempt*

*continued from page 3*

defendant may have to apply for a public defender, which takes at least 10 days. Service is considered successful when the order is handed to the defendant, left with a person of suitable age at the defendant's usual place of abode, or delivered by restricted delivery mail.

At the hearing, the County must present evidence establishing that the defendant failed to obey the court's initial abatement order. The defendant may avoid the finding of contempt if he or she can establish that they were unable to execute the order of the court through no fault on their part. To find contempt, the court must determine that the failure was intentional and deliberate and that the defendant had the ability to perform the required action. Once the court finds contempt, a written order is issued that specifies the sanction imposed for the contempt, what must be done

to purge the contempt, and how the order must be executed. For example, the order could state that the defendant will serve 20 days in jail and that the sentence can be avoided by performing the action required by the initial abatement order. As a practical matter, such contempt orders allow sufficient time to perform the action before a jail sentence or other penalty is imposed.

Seeking contempt of a Code violator is usually the last step in a series of enforcement actions which seek less drastic means of obtaining compliance with the County Code. 

**Editor's note:** *This is part of a series of articles that will describe the Code Enforcement process, Code Inspectors' responsibilities, and the litigation procedures that move these issues to closure.*